

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	Crim. No. 1:15-cr-257
	:	
	:	
v.	:	
	:	
	:	
JOSE RAMOS	:	Judge Sylvia H. Rambo

MEMORANDUM

Before the court is a petition filed by Jose Ramos pursuant to 28 U.S.C. § 2255. (Doc. 59.) Ramos previously filed a motion pursuant to § 2255 on November 7, 2016 (Doc. 51), which the court denied for failure to state a claim on August 23, 2017 (Docs. 56 & 57) following disposition of his direct appeal. The instant motion therefore constitutes a second or successive motion.

Pursuant to 28 U.S.C. § 2255(h), “a second or successive motion must be certified as provided in Section 2244 by a panel of the appropriate court . . .” and then only subject to clauses (h)(i) or (ii). There has been no approval given by the Court of Appeals to Ramos to file a second or successive motion.

The court notes that the issue raised in the instant petition was raised on direct appeal and dismissed. The same issue was also raised in the first § 2255 petition (Doc. 51) and the court’s decision on that matter was not appealed. That issue being an allegation that defense and appellate counsel failed to raise the issue

that Ramos should have been given the benefit, as an illegal alien, of the “fast track program.”

Absent approval by the Court of Appeals, this court lacks jurisdiction to address the petition. (Doc. 59.) An appropriate order will issue.

s/Sylvia H. Rambo

SYLVIA H. RAMBO

United States District Judge

Dated: February 12, 2018